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General Assembly
Sixty-sixth session

Official Records

105th plenary meeting
Monday, 16 April 2012, 10 a.m.
New York

President: Mr. Al-Nasser. . . . . (Qatar)

In the absence of the President, Mr. Sajdik (Austria), Vice-President, took the chair.

The meeting was called to order at 10.15 a.m.

Tribute to the memory of His Excellency Mr. Bingu Wa Mutharika, President of the Republic of Malawi

The Acting President: Before proceeding to the item on our agenda, it is my sad duty to pay tribute to the memory of His Excellency Mr. Bingu Wa Mutharika, President of the Republic of Malawi, who passed away on 5 April. On behalf of the General Assembly, I request the representative of Malawi to convey our condolences to the Government and people of Malawi and to the bereaved family of His Excellency President Bingu Wa Mutharika.

I now invite representatives to stand and observe a minute of silence in tribute to the memory of His Excellency President Bingu wa Mutharika.

The members of the General Assembly observed a minute of silence.

The Acting President: I now give the floor to the representative of Algeria, who will speak on behalf of the Group of African States.

Mr. Benmehidi (Algeria): I have the honour to speak on behalf of the Group of African States to extend our deepest condolences to the people and Government of our sister Republic of Malawi on the passing away of its President, His Excellency Mr. Bingu Wa Mutharika.

The late President Mutharika will be remembered in Africa as a true nationalist who devoted his life to furthering his country's progress while serving his continent with the utmost dedication. He chaired the African Union from January 2010 to January 2011, making the issue of food security in Africa the cornerstone of his tenure. Building on the remarkable success of the national food security policy in Malawi, he laid down a road map for Africa aimed at achieving food security in general and sustainability in particular.

Throughout his life President Mutharika promoted the legitimacy of economic independence for developing countries, particularly those in Africa. The unanimous decision taken by the African Union Assembly to hold its nineteenth summit in Malawi this July constitutes clear recognition of President Mutharika's leadership in chairing the Union and of his great commitment to Africa. The many legacies of President Bingu Wa Mutharika will continue to live on in the minds and hearts of the people of Malawi. Our thoughts and condolences go out to his family in these difficult circumstances. May that great statesman rest in peace.

The Acting President: I now give the floor to the representative of Mongolia, who will speak on behalf of the Group of Asia-Pacific States.

Ms. Ochir (Mongolia): On behalf of member States of the Asia-Pacific Group, I have the distinct honour to pay tribute to the memory of His Excellency Mr. Bingu Wa Mutharika, late President of the Republic of Malawi.

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We extend our deepest condolences to his family and to the people and Government of the Republic of Malawi.

When he was first elected as President of Malawi, in 2004, the late President Mutharika boldly proceeded to overhaul Malawi's development policies and programmes, bringing about a seven-year boom that made Malawi one of the world's fastest-growing economies. He also implemented a subsidy programme for agricultural products that transformed Malawi from a nation plagued by famine into a domestic and regional breadbasket.

Due to the success of Malawi's economy during his first presidential term, the late President Mutharika was re-elected in 2009 in a landslide vote. During his second tenure, he continued to demonstrate particular commitment to economic reform and efficient reinforcement of anti-corruption measures.

The late President was awarded numerous national and international awards for his achievements, including an United Nations Millennium Development Goals Award in 2010 for success towards eliminating hunger by enhancing food security, as well as the Agricola Medal of the Food and Agriculture Organization of the United Nations in 2008 in honour of his substantial contribution to transforming the country's economy from that of a food deficit nation to that of a net exporter of maize.

The late President's commitment to regional cooperation was also outstanding. He proposed a new partnership with other African nations, called the African Food Basket Initiative, that outlined a strategy for improving agriculture and food security in the region.

Our thoughts and prayers are with the family of the late President and the people of Malawi in their time of mourning. May the late President rest in peace.

The Acting President: I now give the floor to the representative of Bulgaria, who will speak on behalf of the Group of Eastern European States.

Mr. Belev (Bulgaria): On behalf of the Group of Eastern European States, I would like to extend our deepest condolences to the Government and the people of Malawi on the passing away of His Excellency Mr. Bingu Wa Mutharika, the President of the Republic of Malawi since 2004, the Chairperson of the African Union in 2010 and a politician and statesman whose work has had an impact not only on his own country but on Africa as a whole. He made a substantial contribution to the well-being of the people of Malawi by achieving progress in agricultural production and food security, in legal and economic reform and in fiscal restraint and anti-corruption measures, as well as in promoting regional reconciliation and security on the continent as a whole.

President Mutharika came up with the idea of forging a new partnership on the African Food Basket Initiative, which included subsidies to small farmers, especially women, improvements in irrigation and implementing innovative interventions in agriculture aimed at achieving food security within a period of five years.

I would also like to take this opportunity to convey our hope that the goals of achieving stability and prosperity will be upheld by Mr. Mutharika's successor, the first female President of the country, Her Excellency Mrs. Joyce Banda, whose election represents an important step in promoting women's rights and gender equality.

The Acting President: I now give the floor to the representative of Guatemala, who will speak on behalf of the Group of Latin American and Caribbean States.

Mr. Rosenthal (Guatemala) (*spoke in Spanish*): As the Chair of the Group of Latin American and Caribbean States for the month of April, it is my sad duty to express to the people and Government of the Republic of Malawi the most sincere and heartfelt condolences of the member countries of the Group on the sad passing away of His Excellency Mr. Bingu Wa Mutharika this past Thursday, 5 April. We extend our condolences to the Mutharika family and to the President of Malawi, Her Excellency Mrs. Joyce Hilda Mtila Banda.

We know that Mr. Bingu Wa Mutharika tirelessly devoted himself to the socio-economic transformation of Malawi, in particular in areas such as food security and public infrastructure. In that regard, in 2010 he was awarded the United Nations Millennium Development Goals Award for having enabled his country to achieve progress beyond expectations in meeting the Goals. He also promoted improvements in the social security system for the young people of Mali by introducing the presidential initiative for sports, the development fund for young entrepreneurs and the rural development fund of Malawi, which also benefitted the country's youth.

Moreover, it is recognized that, under his presidency, Malawi achieved considerable progress towards the consolidation of a democratic system. The fact that he included a number of young people in his Cabinet served as a constant source of inspiration for political youth associations.

But the legacy of Mr. Bingu Wa Mutharika transcends the borders of Malawi. As members know, he was the Chairperson of the African Union in 2010, promoting on the African continent some of the achievements he had obtained in his own country. Even before becoming President of Malawi, Mr. Bingu Wa Mutharika had burnished his regional credentials by becoming Secretary-General of the Common Market for Eastern and Southern Africa.

So as not to lose the momentum seen to date in Malawi, it is essential, in these difficult times, for its people to maintain their unity, regardless of political, religious, regional or cultural differences. In that respect, the members of the Latin American and Caribbean regional group would like to express their support to President Joyce Banda, who, in her capacity as constitutional successor to Mr. Bingu Wa Mutharika, will have to ensure an orderly transition of authority. May President Bingu Wa Mutharika rest in peace.

The Acting President: I now give the floor to the representative of Sweden, who will speak on behalf of the Group of Western European and other States.

Ms. Burgstaller (Sweden): I have the honour to speak on behalf of the members of the Group of Western European and other States. I wish to convey to the people and the Government of the Republic of Malawi our deepest condolences on the loss of their head of State, His Excellency Mr. Bingu wa Mutharika.

As President of Malawi from 2004 until his death, the late President Mutharika fought to reduce poverty in his country. Under his leadership, Malawi made progress in achieving economic growth, and the country also enjoyed improved conditions in health care and education.

President Mutharika was the first head of State of his country to assume the position of Chairperson of the African Union. In that capacity, he took his national efforts to champion food security to the continental level.

Besides serving his country and continent, the late President Mutharika was a truly international citizen who had studied in Zambia, India and the United States, where he earned a doctorate in economics. He had an outstanding career as an international civil servant for many years.

The members of the Group of Western European and other States wish to voice their appreciation and gratitude for the contribution of the late President Mutharika, not just to his country but also to the African region and the entire international community. We would like to express to his family and to the people of Malawi our affection and sincere condolences. Our thoughts and sympathies are with them at this difficult time.

The Acting President: I now give the floor to the representative of the United States, who will speak in her capacity as representative of the host country.

Ms. Cousens (United States of America): The United States wishes to extend its deepest condolences to the family of the late President Bingu wa Mutharika and to the people and Government of the Republic of Malawi for their loss. Our thoughts are with the people of Malawi during this time of sorrow.

As President of Malawi since 2004, President Mutharika fought to reduce poverty in his country and led efforts to advance food security in Africa as Chairperson of the African Union — the first head of State of his country to assume that esteemed position.

President Mutharika studied in Zambia, India and the United States, earning a doctorate in development economics, and had a notable career as an international civil servant.

At such a difficult time, we further recognize the constitutional transfer of power following President Mutharika's passing, and express our support for Her Excellency Mrs. Joyce Banda, southern Africa's first female head of State.

As Malawians mourn the loss of their President, the United States remains committed to maintaining our strong relationship and our abiding partnership with the people and the Government of Malawi.

The Acting President: I now give the floor to the representative of Malawi.

Mr. Bowler (Malawi): May I thank my dear colleagues who have taken the floor for their kind words and words of comfort at this difficult time. It is with profound grief and the greatest sorrow that I stand

before the Assembly today to honour and pay homage to His Excellency the late Ngwazi Professor Bingu wa Mutharika, who was until his death the President of the Republic of Malawi.

The late President Mutharika passed away on Thursday, 5 April, after suffering from cardiac arrest at his official residence in Lilongwe. President Mutharika became the President of the Republic of Malawi in 2004 and was re-elected for a second term of office in a landslide victory in 2009.

The Government of Malawi has since declared a 10-day mourning period that began on Saturday, 7 April.

The late President Mutharika will be laid to rest on 23 April at his home in the Thyolo district, in the southern part of Malawi. The late President Mutharika is regarded by many as one of the greatest sons of Africa, and his achievements will be forever remembered.

Malawians will fondly remember President Mutharika for his vision in the fight against poverty and hunger as well in as achieving food security for our great country.

In his capacity as Chairperson of the African Union, President Mutharika laid down a road map for Africa to achieve food security and sustainability, and championed the African Food Basket Initiative as a priority agenda. He always said that no nation could be secure without first achieving food security.

I take this opportunity to inform the Assembly that in accordance with the Constitution of the Republic of Malawi, following the death of President Mutharika, Her Excellency Mrs. Joyce Banda, formerly Vice-President, was sworn in on 7 April 2012 as the new President of the Republic of Malawi.

Mrs. Banda has made history by being the first woman to assume this important position in my country and in southern Africa and, of course, the second female President in Africa. As Malawians, we are very proud of this achievement. Malawi has experienced a smooth transition of power after the death of President Mutharika, clear testimony that Malawi is a peace-loving nation and evidence of the maturity of democracy in the country.

Finally, it is my greatest honour to express my appreciation and thanks to all those who have given us support: the Secretary-General, His Excellency Mr. Ban Ki-moon; the Deputy Secretary-General, Ms. Asha-Rose Migiro; the President of the General Assembly; members of the diplomatic corps; senior staff of the United Nations; and all those friends who have comforted us through this time of deep mourning.

May I also convey special thanks to the Government and the people of South Africa for the help they have given us during this difficult time. May Almighty God bless you all, and may the soul of the President rest in peace.

Agenda item 115 (*continued*)

Appointments to fill vacancies in subsidiary organs and other appointments

(i) Appointment of the judges of the United Nations Dispute Tribunal

Memorandum by the Secretary-General (A/66/682/Add.1)

Report of the Internal Justice Council (A/66/664/Add.1)

The Acting President: As indicated in document A/66/682/Add.1, the terms of office of one full-time judge of the Dispute Tribunal — Judge M. Ebrahim-Carstens — and one half-time judge of the Dispute Tribunal — Judge G. Meeran — are due to expire on 30 June 2012.

Also as indicated in A/66/682/Add.1, ad litem Judge Marilyn Kaman declined, for personal reasons, to accept the extension of her appointment for an additional six-month period, approved by the General Assembly in resolution 65/251.

It is therefore necessary for the General Assembly, during its sixty-sixth session, to appoint a full-time judge, a half-time judge and an ad litem judge to the Dispute Tribunal to fill the resulting vacancies.

In accordance with paragraph 4 of article 4 of the statute of the United Nations Dispute Tribunal, the term of office of the full-time judge and the half-time judge will be seven years.

In accordance with paragraph 42 of resolution 66/237, the mandate of the ad litem judge will be for one year. In accordance with paragraph 42 of resolution 66/237, the mandate of the ad litem judge will be for one year.

In its report to the General Assembly contained in documents A/66/664 and A/66/664/Add.1, the Internal Justice Council recommends for to the consideration of the Assembly two candidates for the full-time vacancy, two candidates for the half-time vacancy and two candidates for the ad litem vacancy. In the report, the Council provides the names, by position, location and tribunal, of candidates it considers suitable for election to the Dispute Tribunal.

The candidates recommended by the Council for appointment as full-time judge are Ms. Memooda Ebrahim-Carstens of Botswana and Ms. Danielle Grenier of Canada.

The candidates recommended by the Council for appointment as half-time judge are Mr. Jean-François Cousin of France and Mr. Goolam Hoosen Kader-Meeran of the United Kingdom of Great Britain and Northern Ireland.

The candidates recommended by the Council for appointment as ad litem judge are Ms. Alessandra Greceanu of Romania and Ms. Danielle Grenier of Canada.

The appointment of the full-time and half-time judges of the United Nations Dispute Tribunal will be made in accordance with the statute of the Dispute Tribunal and the rules of procedure of the General Assembly.

Article 4 of the statute the United Nations Dispute Tribunal states that

> "The Dispute Tribunal shall be composed of three full-time judges and two half-time judges.
>
> "The judges shall be appointed by the General Assembly on the recommendation of the Internal Justice Council in accordance with Assembly resolution 62/228. No two judges shall be of the same nationality. Due regard shall be given to geographical distribution and gender balance."

In order to be eligible for appointment, paragraph 3 of Article 4 of the statute of the Dispute Tribunal requires that a person shall be of high moral character and possess at least 10 years of judicial experience in the field of administrative law or the equivalent within one or more national jurisdictions.

Paragraph 4 of article 4 of the statute of the Dispute Tribunal provides that

> "A judge of the Dispute Tribunal shall be appointed for one non-renewable term of seven years. As a transitional measure, two of the judges (one full-time judge and one half-time judge) initially appointed, to be determined by drawing of lots, shall serve three years and may be reappointed to the same Dispute Tribunal for a further non-renewable term of seven years. A current or former judge of the United Nations Appeals Tribunal shall not be eligible to serve in the Dispute Tribunal."

The appointment of ad litem judges to the United Nations Dispute Tribunal is not addressed in its statute. Accordingly, the appointment of an ad litem judge will be made in accordance with resolution 66/237, the rules of procedure of the General Assembly and the recommendations of the Internal Justice Council as set out in its report to the General Assembly contained in documents A/66/664 and A/66/664/Add.1.

In document A/66/682/Add.1, it is proposed that the General Assembly proceed to appoint the full-time, half-time and ad litem judges of the Dispute Tribunal through an election, bearing in mind paragraph 58 of resolution 63/253, in which the General Assembly invited Member States, when electing judges to the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, to take due consideration of geographical distribution and gender balance.

Only those candidates recommended by the Internal Justice Council whose names appear in the memorandum are eligible for election. The electors in the General Assembly will indicate the candidates for whom they wish to vote by placing a cross against each name on the ballot papers. Each elector may vote for not more than one candidate for full-time appointment, one candidate for half-time appointment and one candidate for ad litem appointment.

Those candidates who obtain a majority of votes in the General Assembly of the members present and voting will be considered as elected and thereby appointed by the Assembly to the Dispute Tribunal.

Balloting shall continue in accordance with the rules of procedure until as many candidates as are required for the full-time, half-time and ad litem seats on the Dispute Tribunal to be filled have obtained, in one or more ballots, a majority of votes of the members present and voting.

It is proposed that the election for the full-time seat on the Dispute Tribunal take place first. Once the full-time judge has been elected, the election for the half-time seat on the Tribunal will proceed. Once the half-time judge has been elected, the election for the ad litem seat on the Tribunal will proceed.

May I take it that the Assembly agrees to those procedures?

It was so decided.

The Acting President: The General Assembly will now proceed to the election of a full-time judge of the United Nations Dispute Tribunal.

Only those candidates whose names appear on the ballot papers are eligible for election. Representatives are requested to indicate the candidate for whom they wish to vote by placing a cross against her name on the ballot papers. Each representative may vote for not more than one candidate for appointment to the Dispute Tribunal.

The election will be held in accordance with the relevant rules of procedure of the General Assembly. Therefore, in accordance with rule 92 of the rules of procedure, the election shall be held by secret ballot, and there shall be no nominations.

Before we begin the voting process, I should like to remind members that, pursuant to rule 88 of the rules of procedure of the General Assembly, no representative shall interrupt the voting except on a point of order on the actual conduct of the voting. In addition, ballot papers will only be given to the representative seated directly behind the country's name plate.

We shall now begin the voting process. Members are requested to remain seated until all ballots have been collected. Ballot papers will now be distributed.

I request representatives to indicate the candidate for whom they wish to vote by placing a cross against her name on the ballot papers. I again also remind representatives that they may vote for not more than one candidate for appointment to the Tribunal. A ballot will be declared invalid if more than one name is marked for appointment to the Dispute Tribunal.

At the invitation of the Acting President, Mr. Zaid (Afghanistan), Ms. Belskaya (Belarus), Mr. Cabezas (Chile), Mr. Koko (Côte d'Ivoire), Miss Chambers (Jamaica) and Mr. Inácio (Portugal) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 11 a.m. and resumed at 11.20 a.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	169
Number of invalid ballots:	0
Number of valid ballots:	169
Abstentions:	1
Number of members voting:	168
Required majority:	85
Number of votes obtained:	
Ms. Memooda Ebrahim-Carstens (Botswana):	135
Ms. Danielle Grenier (Canada):	33

Having obtained the required majority and the largest number of votes, Ms. Memooda Ebrahim-Carstens (Botswana) was duly appointed as a full-time judge of the United Nations Dispute Tribunal to serve for a seven-year term commencing on 1 July 2012 and ending on 30 June 2019.

The Acting President: I take this opportunity to extend to Judge Memooda Ebrahim-Carstens the congratulations of the Assembly on her appointment.

The General Assembly will now proceed to the election of a half-time judge of the United Nations Dispute Tribunal. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives are requested to indicate the candidate for whom they wish to vote by placing a cross against his name on the ballot papers. Each representative may vote for not more than one candidate for half-time appointment to the Dispute Tribunal.

The election will be held in accordance with the relevant rules of procedure of the General Assembly. Therefore, in accordance with rule 92 of the rules of procedure, the election shall be held by secret ballot and there shall be no nominations.

We shall now begin the voting process. Members are requested to remain seated until all ballots have been collected. Ballot papers will now be distributed.

I request representatives to indicate the candidate for whom they wish to vote by placing a cross against his name on the ballot papers. May I also remind representatives that they may vote for not more than one candidate for half-time appointment to the Tribunal. A

ballot will be declared invalid if more than one name is marked for appointment to the Dispute Tribunal.

At the invitation of the Acting President, Mr. Zaid (Afghanistan), Ms. Belskaya (Belarus), Mr. Cabezas (Chile), Mr. Koko (Côte d'Ivoire), Miss Chambers (Jamaica) and Mr. Inácio (Portugal) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 11.25 a.m. and resumed at 11.50 a.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	166
Number of invalid ballots:	1
Number of valid ballots:	165
Abstentions:	3
Number of members voting:	162
Required majority:	82
Number of votes obtained:	
Mr. Goolam Hoosen Kader Meeran (United Kingdom of Great Britain and Northern Ireland):	93
Mr. Jean-François Cousin (France):	69

Having obtained the required majority and the largest number of votes, Mr. Goolam Hoosen Kader Meeran (United Kingdom of Great Britain and Northern Ireland) was duly appointed as a half-time judge of the United Nations Dispute Tribunal to serve for a term of office commencing on 1 July 2012 and ending on 30 June 2019.

The Acting President: On behalf of the General Assembly, I would like to congratulate Judge Mr. Goolam Hoosen Kader Meeran on his appointment.

The General Assembly will now proceed to the election of an ad litem judge of the United Nations Dispute Tribunal. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives are requested to indicate the candidates for whom they wish to vote by placing crosses against their names on the ballot papers. Each representative may vote for not more than one candidate for half-time appointment to the Dispute Tribunal.

The election will be held in accordance with the relevant rules of procedure of the General Assembly. Therefore, in accordance with rule 92 of the rules of procedure, the election shall be held by secret ballot and there shall be no nominations.

We shall now begin the voting process. Members are requested to remain seated until all ballots have been collected. Ballot papers will now be distributed.

May I request representatives to indicate the candidate for whom they wish to vote by placing a cross against that name on the ballot papers. I once again remind representatives that they may vote for not more than one candidate for appointment to the Tribunal. A ballot will be declared invalid if more than one name is marked for appointment to the Dispute Tribunal.

At the invitation of the Acting President, Mr. Zaid (Afghanistan), Ms. Belskaya (Belarus), Mr. Cabezas (Chile), Mr. Koko (Côte d'Ivoire), Miss Chambers (Jamaica) and Mr. Inácio (Portugal) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at noon and resumed at 12.15 p.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	166
Number of invalid ballots:	0
Number of valid ballots:	166
Abstentions:	3
Number of members voting:	163
Required majority:	82
Number of votes obtained:	
Ms. Alessandra Greceanu (Romania):	103
Ms. Danielle Grenier (Canada)	60

Having obtained the required majority and the largest number of votes, Ms. Alessandra Greceanu was duly appointed as an ad litem judge of the United Nations Dispute Tribunal to serve for a term of office commencing on 16 April 2012 and ending on 31 December 2012.

The Acting President: On behalf of the General Assembly, I would like to congratulate Judge Greceanu on her appointment, as well as to thank the tellers for their efforts.

The Internal Justice Council, in its report contained in document A/66/664/Add.1, stipulated that it considered that, when deciding in resolution 66/237 to extend the mandate of the three ad litem

judges of the Dispute Tribunal for one year, the General Assembly intended for the incumbent ad litem judges to continue uninterrupted in office, without the need for reappointment, until 31 December 2012. Accordingly, the Internal Justice Council indicated that the terms of office of the two incumbent ad litem judges, Mr. Jean-François Cousin, who is based in Geneva, and Ms. Nkemdilim Amelia Izuako, who is based in Nairobi, are extended until 31 December 2012.

May I take it that the General Assembly wishes to confirm that the terms of the two incumbent ad litem judges, Mr. Jean-François Cousin and Ms. Nkemdilim Amelia Izuako, are extended until 31 December 2012?

It was so decided.

The Acting President: The Assembly has thus concluded this stage of its consideration of sub-item (i) of agenda item 115.

The meeting rose at 12.20 p.m.